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Attorney's Docket: 2002DE142
Serial No.: 10/533,999
Group: 1796

REMARKS

The Office Action mailed July 31, 2008, has been carefully considered together with each of the references cited therein. The remarks presented herein are believed to be fully responsive to the Office Action. Accordingly, reconsideration of the present Application in view of the following remarks is respectfully requested.

CLAIM STATUS

Claims 1 through 3 and 9-14 are pending in this Application.

Claim Rejections Under 35 USC § 102 and 35 USC § 103

Claims 1-3 and 9-14 stand rejected under 35 USC § 102(b) as anticipated by or, in the alternative, under 35 USC § 103(a) as obvious over Machtold et al. (US 5,061,585). Claims 1-3, 9, 13 and 14 stand rejected under 35 USC § 102(b) as anticipated by or, in the alternative, under 35 USC § 103(a) as obvious over Schafer et al. (US 3,652,602). Claims 1-3 and 9-14 stand rejected under 35 USC § 102(b) as anticipated by or, in the alternative, under 35 USC § 103(a) as obvious over Metz et al. (US 6,168,895). These rejections are respectfully traversed.

The Office will kindly recall, that the rejections levied in the Final Office Action are identical to the rejections made in the Office Action mailed March 7, 2008. Applicants hereby incorporate all of their arguments made in Amendment in response to the non-final Office Action mailed March 7, 2008 as if reproduced herein.

In the final Office Action, on page 5, the Office responded to Applicants' arguments stating:

Applicant's arguments filed regarding Machtold, Schafer and Metz have been fully considered but they are not persuasive. In applicant's declaration dated July 7, 2008 no experimental data regarding the concentration of aniline of the dye compounds of formula (I) have been provided. Applicant's arguments are

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speculatory and have not adequately demonstrated the instantly claimed aniline levels were not achieved in the dyes of Machtold, Schafer and Metz. Applicant's arguments are conclusory statements not supported by factual evidence, see *In re Lindner*, 457 F.2d 506, 173 USPQ 356 (CCPA 1972). Accordingly, the rejections are relied upon above are maintained.

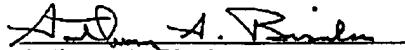
Thus, it seems the Office has been reluctant to embrace Applicants' argument, because the previous submitted declaration has "not adequately demonstrated that the instantly claimed aniline levels were not achieved in the dyes of Machtold, Schafer and Metz."

Attached hereto is a second-declaration by Hans-Tobias Macholdt that unequivocally speaks to the aniline levels of the prior art not being within the range which Applicants claim. In light of this second declaration proffered herewith, it is respectfully contended the 35 USC § 102/103 rejections have been traversed.

For at least the foregoing reasons, it is respectfully contended that the 35 USC § 102/103 rejections have been overcome. In consequence, Applicants courteously solicit reconsideration and withdrawal of the rejections.

In view of the forgoing remarks, the present Application is believed to be in condition for allowance, and reconsideration of it is requested. If the Examiner disagrees, she is requested to contact the attorney for Applicants at the telephone number provided below.

Respectfully submitted,


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